

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE
Bangor Division**

JANE DOES 1–6, JOHN DOES 1–3,)	
JACK DOES 1–1000, JOAN DOES 1–1000,)	
)	
Plaintiffs,)	
v.)	Case No. <u>1:21-cv-00242-JDL</u>
)	
JANET T. MILLS, in her official capacity as)	
Governor of the State of Maine,)	
JEANNE M. LAMBREW, in her official capacity)	
as Commissioner of the Maine Department of)	
Health and Human Services,)	
NIRAV D. SHAH, in his official capacity as)	
Director of the Maine Center for Disease Control)	
and Prevention,)	
MAINEHEALTH,)	
GENESIS HEALTHCARE OF MAINE, LLC,)	
GENESIS HEALTHCARE, LLC,)	
NORTHERN LIGHT HEALTH FOUNDATION,)	
MAINEGENERAL HEALTH,)	
)	
Defendants.)	

**PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITIES
IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION**

Plaintiffs, by and through the undersigned counsel, hereby submit for the Court's consideration the United States Court of Appeals for the Second Circuit's Order granting a Preliminary Injunction Pending Appeal in *We The Patriots USA, Inc. v. Hochul*, No. 21-2179 (2d Cir. Sept. 30, 2021) (attached hereto as **EXHIBIT A**), and the United States District Court for the Northern District of New York's Order extending its original Temporary Restraining Order in *Dr. A v. Hochul*, No. 1:21-cv-1009 (N.D.N.Y. Sept. 20, 2021) (attached hereto as **EXHIBIT B**), as significant and pertinent authorities supporting Plaintiffs' Motion for Preliminary Injunction.

1. On September 30, 2021, the Second Circuit Court of Appeals granted a Preliminary Injunction Pending Appeal (Exhibit A) in a case that is virtually identical to Plaintiffs' claims in

this Court. There, as here, the plaintiffs challenged the New York Governor's imposition of a COVID-19 vaccine mandate for healthcare workers that permitted medical accommodations but excluded religious accommodations, which the plaintiffs challenged on First Amendment grounds. (Exhibit A at 1.)

2. The Second Circuit held, based on *Roman Catholic Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63, 66 (2020), that plaintiffs were entitled to a preliminary injunction pending appeal, and enjoined the Governor from enforcing her COVID-19 vaccine mandate on healthcare workers to the extent it purported to remove religious exemptions and accommodations mandated by the First Amendment and federal law. (*Id.*) Specifically, the Court held: “**Appellees are hereby ENJOINED, pending resolution of the appeal or further order of this Court, from enforcing the mandates against persons claiming religious exemptions**” (*Id.* (emphasis added).)

3. Part of the Second Circuit rationale was that the Northern District of New York had enjoined the Governor from enforcing her COVID-19 vaccine mandate to the extent it deprived healthcare workers of religious exemptions and accommodations. (Ex. A at 1 (citing *Dr. A v. Hochul*, No. 21-cv-1009 (N.D.N.Y. Sept. 13, 2021)).

4. Significant to Plaintiffs' claims here, the Northern District of New York *sua sponte* extended its Temporary Restraining Order until full resolution of the preliminary injunction because it found – **as is true here** – that imposition of the mandate constituted “irreparable harm” “to the extent it categorically requires health care employers to deny or revoke religious exemptions from COVID-19 vaccination mandates.” (Exhibit B at 2, 4.)

5. The foregoing authorities are relevant to Plaintiffs' Motion for Preliminary Injunction (dkt. 3) at pp. 15-16, and Plaintiffs' Reply in Support of Motion for Preliminary Injunction (dkt. 57) at 20-21. The Second Circuit's Injunction Pending Appeal is also relevant to

Plaintiffs' claims for alternative relief in the form of an injunction pending appeal should this Court not enter a preliminary injunction. (Dkt. 3 at 17.)

Respectfully submitted,

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*Applications for Admission pro hac vice pending

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of October, 2021, I caused a true and correct copy of the foregoing to be electronically filed with this Court. Service will be effectuated on all Counsel of Record via this Court's ECF/electronic notification system.

/s/ Daniel J. Schmid
Daniel J. Schmid